UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1201 ELM STREET, SUITE 500
DALLAS, TEXAS 75270

November 18, 2022

Cari-Michel Lacaille, Director
Office of Water (MC-158)
Texas Commission on Environmental Quality (TCEQ)
P.O. Box 13087
Austin, TX 78711-3087

Re: Interim Objection – Request for Additional Information
TPDES Permit No. TX0134635 (WQ0005019000)
Corpus Christi Polymers, LLC

Dear Ms. Lacaille:

Thank you for the opportunity to review the draft permit for Corpus Christi Polymers, LLC (TPDES Permit No. TX0134635) received by our office via FTP on September 29, 2022, and for the extension for review granted on October 28, 2022. The revised deadline is November 18, 2022 (the initial deadline was November 4, 2022). Based on our review, we are requesting additional information to determine if permit conditions are compliant with the requirements of the Clean Water Act.

1. The permittee proposes to operate the Corpus Christi Polymers plant (formerly M&G Resins), a resin manufacturing facility. The permittee also proposes to operate a cooling water intake structure (CWIS) where a portion of water withdrawn from the Corpus Christi Inner Harbor will used for cooling purposes. The operations, design, and location of CWISs are subject to section 316(b) of the Clean Water Act and/or the requirements of Phase I 316(b) Rule for new facilities that became final December 2001 [66 Federal Register 65255]. According to the Fact Sheet, the TCEQ concluded that the facility is not subject to the requirements of the December 2001 316(b) Rule for new facilities but is subject to 316(b) of the CWA based on the best professional judgment (BPJ) of the permit writer. The TCEQ's determination was based ont its assessment of the Rule's threshold requirement that at least 25% of water withdrawn be used for cooling purposes. The permit application cites this threshold to be measured as the "annual" average within a given year. However, 40 CFR §125.81(c) requires that the threshold requirement be measured as the "monthly" average within a year. Therefore, the EPA is requesting that the TCEQ reassess the facility's proposed operation of the CWIS in accordance with 40 CFR §125.81(c) to determine if the facility is subject to the requirements of the 2001 316(b) Phase I Rule for new facilities.

2. As mentioned above, the permittee will be operating a CWIS, and the technology to be used is cooling towers to reduce the adverse impacts to aquatic life. To provide more clarification of the best technology available (BTA) technology to be implemented, we are requesting additional information regarding the operation of the CWIS (i.e., the design, location, and construction) to ensure compliance with Section 316(b) of the CWA and/or Phase I Rule for new facilities. Please refer to TPDES permits TX0116785 and TX0001627 for sample language or something similar, that were previously reviewed.

3. Provision no. 4 of OTHER REQUIREMENTS of the permit requires the permittee ". . . to provide written notification to the TCEQ of any changes in the method by which the facility obtains water for cooling purposes . . .". We suggest including the following language below or something similar to ensure compliance with section 316(b) of the CWA or 316(b) Rule Phase I for new facilities regarding the operation and maintenance of the CWIS. Refer to TPDES permits, TX0083178, TX0116785, and TX0001627 for similar language.

   "When in operation, the cooling water system must be operated and maintained as represented in the application for this permit. The permittee shall provide written notification to the TCEQ Industrial Permit Team (MC 148) and Region 13 office of any change in the procedure or facility modification which alters the method . . ."

4. In the permit package (i.e., permit application and fact sheet) the effluent discharge from final outfall 001 is characterized as, "reverse osmosis reject water, filter backwash, previously monitored effluents [process wastewater . . . from internal outfall 101; and treated domestic wastewater from internal outfall 201] . . .]" at a flow rate of 38.2 MGD. In addition, 84% of the effluent discharge via outfall 001 will be comprised of reverse osmosis (RO) reject water. For similar waste streams, parameters total dissolved solids (TDS), sulfates, and chlorides are typically controlled and limited at the effluent discharge to protect aquatic life and water quality of the receiving waterbody. However, there are no permit conditions or requirements for these parameters. It is stated that numeric criteria for these parameters have not been established for this waterbody segment 2484, Corpus Christi Inner Harbor. Even though there are no numeric criteria for these parameters, additional information is needed to ensure permit conditions as proposed are in compliance with the salinity narrative criteria cited at 30 TAC §307.4 (g)(3) and that the salinity gradients in the waterbody will be maintained (i.e., warranting of further assessment and/or modeling of effluent discharge). See specific citation below. In addition, at a minimum, we are requiring monitoring and reporting for TDS, sulfates, and chlorides and a limit for salinity.

   "Salinity gradients in estuaries must be maintained to support attainable estuarine dependent aquatic life uses. Numerical salinity criteria for Texas estuaries have not been established because of the high natural variability of salinity in estuarine systems, and because long-term studies by state agencies to assess estuarine salinities are still ongoing. Absence of numerical criteria must not preclude evaluations and regulatory actions based on estuarine salinity, and careful consideration must be given to all activities that may detrimentally affect salinity gradients."

   The draft permit establishes Chronic Whole Effluent Toxicity (WET) testing requirements at final outfall 001, with a critical dilution of 13% effluent, using approved marine chronic methods with the most sensitive vertebrate and invertebrate marine test species available. The EPA would like to note that WET testing is a part of EPA's integrated strategy in the assessment of water quality, which includes the use of three control approaches (the other two being chemical-specific limits and biological criteria). As such, the EPA reminds TCEQ that WET is not intended to take the place of any other biological assessment that is appropriate for water quality assessment of this receiving stream.

This Interim Objection is issued in accordance with 40 CFR §123.44 and sections IV.C.3.b. and f. of the Memorandum of Agreement between the TCEQ and the EPA Region 6. In accordance with the MOA, upon receipt from the TCEQ of information to satisfy this Interim Objection, the EPA will have an additional 45 days to provide any specific objections to the draft permit. We request your response within 45 days of receipt of this letter.

We appreciate your attention and cooperation during this permit review process and look forward to your responses and input. Feel free to contact me at (214) 665- 6647 or EMAIL: hill.troy@epa.gov if you have any questions or have your staff contact Mark Hayes at (214) 665-2705, or EMAIL:hayes.mark@epa.gov.

Sincerely yours,

María L. Martínez for

Troy C. Hill
Acting Division Director
Water Division

cc (electronic): Robert Sadlier, Deputy Director
Water Quality Division (MC-145)
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